Dear Secretary,

I wish to make a submission to your *Inquiry into Rate Capping Policy* and, in particular, I wish to address the “service impacts on local communities and impacts on the provision of local infrastructure” section of your Terms of Reference. I am happy for this submission to be made public according to the Inquiry’s normal procedure however, given the circumstances of the case outlined below I ask that my name be kept confidential.

My submission covers some high-level analysis of Benalla Council as well as some specific details of a particularly concerning case involving this Council’s deliberate tactics to circumvent the State Government’s rate cap. Together, these parts of my submission demonstrate a serious consequence of the rate capping system when it is paired with a Council that is unable (or unwilling) to adapt to a lower level of rates income growth. As you will see in this submission, this situation is devastating one of Victoria’s significant sporting venues and creating an appalling legacy for the Andrews Labour Government’s rate cap system.

**Case Details – Financial Management**

Benalla Council appears to have failed to adequately adjust to the State Government’s rate capping policy. The clearest indication of this is seen in the Strategic Resource Plan (SRP) contained in the recently created Council Plan (2017-2021). The summary of this plan on page 41 of the document indicates that Council is expecting increases in “Rates & Charges” of 3.3% to 4.1% per annum across the next 4 years.

![Table of Financial Details]

With the current rate cap of 2% and little indication of any significant rise in CPI in coming years it is clear that Council will need to significantly increase the “charges” part of this income in order to achieve the projected above-CPI income increases. This substitution of one community charge (rates) for another (charges) is completely against the principles of rate capping.
Looking at the breakdown of the “rates & charges” income that is shown on page 42 of the new Council Plan it can be seen that the “user charges” income line increases from $4,046 (thousand) in 2016/17 to $4,604 in 2020/21. This is an increase of 14% over 4 years or 3.5% per year. It is this above-CPI increase that is being used to prop-up Council’s capped rates income.

So, where is this additional revenue (above CPI) going to be spent? Certainly not on the community. The SRP shows that the increase in “materials and services” over the 4 year planning horizon is a total of 0.49% (0.12% per year). “Other expenses” actually drop over the 4-year planning timeline from $514k to $181k so that’s not where the extra income is going. Likewise, the increase in revenue is not being spent on infrastructure for the community, with the total infrastructure spend projected to reduce from $6.8 million in 2016/17 to $3.7 million in 2020/21 (a 45% decrease). Interestingly Benalla’s annual depreciation is increasing over this same time period from $4.9 million to $5.4 million so the decrease in infrastructure spend, combined with the increasing depreciation doesn’t look like it is going to end well for Benalla Council. This deterioration in asset maintenance is likely to be quite interesting to the rate cap inquiry, but for the purposes of this submission it is a side issue.

So, where is this additional revenue going to be spent? Interestingly “Employee Costs” are projected to increase by over $2 million from $11,415 (thousand) to $13,447. This is a total of 17.8% over 4 years or 4.5% per year. Approximately double the projected CPI increases over these years!

It would of course be expected that Council may have an existing enterprise agreement that may have been in place at the commencement of rate capping, and this may impact some of the future employee cost increases. Therefore it is informative to look at the final year of the Council’s SRP projection – the 2020/21 financial year (5 years after the State Government’s rate capping legislation was introduced and certainly enough time to adjust the EBA). In this final year of the SRP Council is projecting a rate increase of 2.2% (a reasonable assumption), but in that same year they are forecasting a hike employee costs of 5.0%, and a corresponding increase of 5.5% in user fees to help pay for these rapidly increasing staffing costs!

It is worth noting that these exorbitant annual increases in employee expenses is despite a projection (in Council’s published SRP) that no new staff will be employed. The 4-year financial projection shows clearly (on page 47 of the Council Plan) that the total FTE remains at exactly 127.8 for the entire 4 years of the SRP. Therefore this 17.8% increase in employee costs over 4 years is all for the current staff.

It is therefore very clear that Benalla Council has decided to ignore the State Government’s rate cap and continue to inflate staff wages at an unsustainable level. However, instead of taking the option of applying for a rate cap variation, or reducing staff pay increases, Council has decided to substitute user fees for lost rates revenue whilst also reducing services & infrastructure to the community. All the while paying the existing staff significantly more money each year. This is an affront to the State Government’s rate capping policy, it undermines the entire rate capping system, and disrespects the other Councils in the state that have worked hard to comply with the State Government’s position.

But this is not just about the high-level finances. There is a serious community impact to Benalla Council’s grab for cash. This is detailed below and is worthy of significant concern by the State Government.

**Case Details – Impact on Community**

The background to this part of the submission is that Benalla Council is the operator of the local airport and has, for several decades, leased land to airport users. The main user is the Gliding Club of Victoria however there are a number of other tenants including a museum, private hangar owners and even some limited commercial tenants. The gliding club is a typical sporting club running – as most sporting clubs do – on a break-even financial model. The airport, and particularly the gliding club, is a key economic driver for the town and region with significant annual...
visitation and international focus (as the recent host of the World Gliding Championships). Benalla Council recognise the economic importance of the gliding operation in Benalla in several strategic documents.

The rental charged for the airport hangar sites and gliding club building had been similar to many small airports in rural areas, although it has not kept pace with inflation in recent years and was due for an adjustment to bring it up to current benchmarks. Prior to rate capping Council gave no indication of any plans to increase the rental for land at the airport.

In 2015 Council adopted an Airport Masterplan that proposed a number of actions and strategies for the use and development of the airport. The masterplan (page 117) identified that the airport was a net cost to Council and provided the following guidance;

"Recommended lease charges for Benalla Airport would [be] $2 – 3 per M2 per annum for unserviced lots, $5.60 – 6.70 per M2 for serviced lots and commercial property between $18.40 – 67.25 per M2".

With most of the lots being unserviced non-commercial leases the expectation was that Council would increase costs to a maximum of $2 to $3 per M2 (or less if they wanted to recognise and encourage the economic benefit of the site). This expectation was further confirmed by comparison to similar airports with similar (mainly gliding) operations. Council’s own report (Planning and Development Committee, 10 May 2017) confirms that comparison rates for similar sites were;

- Bacchus Marsh: $2.20 per M2
- Corowa: $1.14 per M2
- Horsham: $1.50 per M2
- Swan Hill: $2.52 per M2

It was therefore very surprising to the Benalla gliding population when Council, despite their own master plan recommendation, declared a $5.00 per M2 rate. Even more surprising was the addition on top of this rate of a new undisclosed fee to hangar owners to recover the cost of maintenance at the airport. In addition Council also added the cost of the Fire Service property Levy (previously paid by Council as the site owner). In addition, Council also imposed a compulsory periodic “development levy” of an additional $2 per M2 each 5 years, to be paid at Council’s discretion. Finally, Council added a new obligation to the lease for hangar owners to pay Council rates – although no rates have previously been paid and Council has not declared how much they will charge for rates, or when this will start.

This lease makes it absolutely impossible for hangar owners to estimate the financial impact of the new Council charges. The only quantifiable portion of the new lease is the $5 per M2 rate. This alone will net Council almost $80,000 of profit, with “profit” being the correct word because Council’s expenses are to be paid by hangar owners via the new lease condition that owners reimburse Council for their maintenance costs.

With the addition of all of the new and increased charges of Council’s lease it is expected that hangar owners are facing an increase of 1,200% to 1,500% in their costs – perhaps more. This goes well beyond simple cost recovery (especially because the lease compels hangar owners to reimburse Council’s costs in addition to paying their lease fees) and is clearly a tactic for Benalla Council to raise additional revenue that is equivalent to approximately 1% of Council’s rate income in addition to covering Council’s costs at the site.

The details and cost of the lease are horrific enough, but more concerning is the way that Council has gone about this process. Two examples are given below to highlight the heavy-handed tactics used by Council in their attempt to extract this extreme price rise.
Council originally declared the $5.00 rate some time ago and this was met with significant anger from the gliding club and hangar owners. Eventually Council agreed to negotiate with representatives of the gliding club and it quickly became obvious to the gliding club representatives where the disconnect was. Benalla Council was under the incorrect belief that Council owned the buildings and hangars. This appeared to be the reason for the initial $5.00 rental proposal from Council. After some research and discussion Council finally conceded that they did not actually own the buildings, and that they were in fact only renting the bare ground upon which others had built their own hangars and buildings. Once that was cleared up and it was agreed that Council was only leasing a bit of dirt (rather than a fully built and maintained hangar) the gliding club representatives asked Council what their new rental figure was per M2 for the use of the site. Council replied that the realisation that they are renting dirt, and not a building did not change their valuation of the lease and the rate remained at $5.00 per M2!!

Words fail to express the anger and frustration that this example raises. It became very clear at that point that Council was not negotiating in good faith and that there was a solid revenue target that needed to be achieved – despite common sense, despite Council’s own master plan recommendations, and despite Council’s own benchmarking data that showed the market rate for similar airports to be significantly lower. Council simply had a profit target and they were going to get it one way or another.

The second example of Councils stand-over tactics is that Council has refused to renew leases at the airport for several years. This has resulted in most hangar owners having limited tenure. This is a very significant issue for lease holders who have invested large sums of money in building hangars and other infrastructure at the airport. The issue of tenure is recognised in Councils 2015 master plan;

“Tenure is always an issue with any property development/leases. A significant amount of capital is required to develop facilities on airports and financial lenders seek to have long tenure periods with options” (page 20).

Council’s deliberate program of waiting for leases to expire before declaring their 1,000+ percent price hike has put them in a very strong negotiating position regarding new leases. Clearly this deliberate tactic is not how a Council should operate within its community.

For its part, Council wanted to ensure that this power imbalance was in the forefront of hangar owner’s minds when they were given their new leases to sign and Council has recently communicated that there are 3 options for the gliding club and hangar owners;

1. Sign the lease as it stands at $5 per M2, plus FSPL plus an undisclosed amount for outgoings plus Council’s discretionary development levy plus the unresolved question about rates.
2. Not sign the lease and remove the hangars from the airfield.
3. Not sign the lease and any assets will be taken by Council after 6 months.

Terms such as extortion or unconscionable conduct are appropriate in this situation, however I trust that the point is well-made without getting caught up in the significant emotion and anger that already surrounds this issue.

**So, where is this matter going next?**

For various reasons relating to the sport of gliding and Benalla’s positioning in the market it is simply not possible for the gliding club or hangar owners to pay Council the amount of money that it is demanding. The club is already running on a very tight budget and any cost increase will result in significant financial losses as well as reducing membership (due to higher club fees to pay for Council’s new demands). This is a spiral that is as certain as it is
devastating to the gliding club. The simple reality is that, if Council force this lease through then the Gliding Club of Victoria will close. Hangars are already being offered for sale and talk around the club is about retirement or moving to another club.

So, the club (and hangar owners) are now faced with a gut-wrenching choice, pay Council’s undisclosed, uncapped and exorbitant lease fees, and go broke in a year or two, or refuse to sign the lease and have Council confiscate millions of dollars of privately built assets. Either way, the gliding operation in Benalla shuts down, nobody wins, and Council still don’t get their money.

Members are angry at this extortion and will hold strong. Council will then be forced to lock them out and confiscate their assets. The members are resolute that if Benalla Council is going to destroy gliding in Benalla they might as well be seen to do it in a very public way by confiscating assets, rather than accepting leases that will guarantee a painful bankruptcy. This will make for an interesting battle in the lead up to the 2018 Victorian state elections. Let’s hope that it doesn’t come to that as it will reflect very poorly on all parties – including the Andrew’s Labour Government’s Fair Go Rates System for forcing Benalla Council staff to look beyond rate increases to fund their pay rises.

**Conclusion**

In conclusion, this submission seeks to highlight that the State Government’s rate capping policy has been devastating to Victoria’s most significant gliding facility and the future is very bleak while Council maintain their stranglehold on this process. It is fair to say that this is not entirely the fault of the rate capping system and many Councils have adapted to the new system with enthusiasm. However, in this case Council has refused to comply with the desires of the State Government (and the community) and curtail their expenditure to reasonable levels. They have side-stepped the process of seeking a rate cap variation and abused their power to try and extract unreasonable profit from a powerless sporting club. This in itself is bad enough, but the blatant use of these funds to maintain excessive pay increases for staff members beggars belief.

I look forward to seeing what this inquiry makes of this appalling case of Council mismanagement.